

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

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U.S. DISTRICT COURT  
SOUTHERN DIST OHIO  
WEST DIV CINCINNATI

John D. West, on Behalf of Himself  
and All Other Persons Similarly Situated,

Plaintiffs,

v.

AK Steel Corporation Formerly ARMCO Inc.)  
Retirement Accumulation Pension Plan, a part of  
the AK Steel Corporation (Formerly ARMCO  
Inc.) Noncontributory Pension Plan, and

AK Steel Corporation Benefit Plans  
Administrative Committee,

Defendants

Case No.: C-1-02-0001

Judge: Hon. Sandra S. Beckwith

Magistrate Judge: Timothy S. Black

**PROPOSED ORDER DIRECTING SUPPLEMENTAL CLASS NOTICE**

Currently before the Court is the parties' Joint Motion for Partial Extension of the Class Notice Period ("Joint Motion"). The Court hereby grants the Joint Motion as follows.

1. In its Order of April 20, 2005 (Docket No. 91) the Court granted the parties' Joint Motion for Approval of Notice and directed that class notice "be distributed by first-class United States mail to all class members at the addresses recorded in the records of defendant AK Steel Corporation Retirement Accumulation Pension Plan." April 20 Order ¶ 8. The Court further ordered "that the deadline by which class members must have their requests for exclusion from the Class postmarked pursuant to Part IV of the Notice, as well as the deadline for class members to enter appearances in this action through their own counsel, shall be the date which is 25 days after the day that Class Counsel deposits the Notice into the United States mail system for delivery by first-class mail." *Id.* ¶ 9.

2. The Court found that this “individualized notice by mail to the last known address” is sufficient to satisfy the notice requirements of Rule 23 and due process. April 20 Order ¶ 5 (quoting *Grunin v. International House of Pancakes*, 513 F.2d 114, 121 (8th Cir. 1975)).

3. The Court is informed that pursuant to the April 20 Order, class counsel mailed the approved notice to 1333 individuals on April 29, 2005, and inserted into the notice May 24, 2005, as the date by which requests for exclusion from the class or notices of appearance were to be postmarked. This mailing was made based on addresses that Defendants had previously supplied to class counsel during the course of this litigation. *See* Decl. of Class Counsel (Docket No. 92).

4. Defendants have now determined that, as a result of an inadvertent error, there are 100 individuals for whom they did not supply the most recent address in their records, but instead supplied an earlier address, and for whom the notice has not yet been sent to the most recent address in Defendants’ records. The parties now propose to send a supplemental class notice to these 100 individuals. The Court finds that, in order to comply with its original Order and with due process, a supplemental notice be mailed to these class members. The Court further finds that with respect to the remaining class members, for whom the parties have represented that a notice has already been sent to the last known address contained in the Defendants’ files, no additional notice is needed.

7. Accordingly, the Court grants the Joint Motion and orders that class counsel shall re-distribute the class notice approved in the April 20 Order by first-class United States mail to the 100 class members identified in Attachment A to the Joint Motion at the last known addresses recorded in Defendants’ records. The Court further orders that the deadline by

which these 100 class members must have their requests for exclusion from the Class postmarked pursuant to Part IV of the notice, as well as the deadline for these class members to enter appearances in this action through their own counsel, shall be the date which is 15 days after the day that class counsel deposits the notice into the United States mail system for delivery by first-class mail. The Court further orders that such date shall be inserted into the notice by class counsel in the appropriate places before said notice is mailed.

IT IS SO ORDERED:

  
District Judge Sandra S. Beckwith

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